

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Damien O. Johnson,)	C/A No.: 5:15-cv-02059-MBS-KDW
)	
Petitioner,)	
)	
v.)	
)	ORDER
Warden Bush of Tyger River,)	
)	
Respondent.)	
)	

This matter comes before the court on several Motions filed by Plaintiff. The undersigned will address these motions in turn.

1. Motion to Show Cause for Failure to Timely Serve Respondent, ECF No. 54

On July 5, 2016, Petitioner filed a Motion to Show Cause for Failure to Timely Serve Respondent. ECF No. 54. There, Petitioner argues that he failed to timely serve Respondent based on Tyger River C.I. staff members' actions. *See id.* Plaintiff's Motion is **denied** as moot and unnecessary. After Petitioner filed an Amended Petition for Writ of Habeas, *see* ECF No. 42, the court authorized service of process on June 7, 2016, ECF No. 47. On June 8, 2016, the South Carolina Attorney General's Office acknowledged receipt of the "Order to Show Cause and the habeas corpus petition." ECF No. 50.

2. Motion for Nunc Pro Tunc Judgment on Previous Dismissal Order, ECF No. 61

On August 3, 2016, Petitioner filed a Motion that appears to be an attempt to prevent Respondent from basing forthcoming arguments on "an impertinent complaint date." ECF No. 61. Though captioned as a Motion for Nunc Pro Tunc, the undersigned interprets this Motion as one for premature response to Respondent's pleading. In his Motion, Petitioner requests that the court amend a clerical error. *See id.* Petitioner's Motion is **denied** as premature. Though

Respondent has accepted service in this action, no responsive pleading has been filed. Currently, Respondent has until September 2, 2016, to file a Response in this action. *See* ECF No. 57. Petitioner may respond to Respondent's forthcoming pleading in due course and repeat arguments made herein if need be at the appropriate time.

3. Motion to Challenge the Sufficiency of the Response to the Motion to Show Case for Failure to Timely Serve Respondent, ECF No. 65

In Petitioner's Motion, ECF No. 65, filed August 3, 2016, he makes nearly the same arguments contained in his previously filed Motion to Show Cause, ECF No. 54. Additionally, he takes issue with Respondent's Response to the earlier motion. *See id.* As indicated above, the undersigned agrees with Respondent's assertion that Petitioner's July 5, 2016 Motion was unnecessary. Again, Petitioner argues with the filing dates Respondent recites in his Response, ECF No. 55.

Though captioned and docketed as a Motion, ECF No. 65 is really a Reply to Respondent's Response, ECF No. 55. However, to the extent this filing is construed as a Motion, the undersigned **denies** Petitioner's Motion to Challenge the Sufficiency of Respondent's Response as moot and unnecessary. As indicated above, there is no issue with service in this action. Furthermore, Petitioner may file a substantive response to Respondent's forthcoming pleading in due course.

4. Motion for Expedited Consideration, ECF No. 68

On August 17, 2016, Petitioner filed a motion for expedited consideration. ECF No. 68. There, Petitioner argues that he is entitled to a writ of habeas corpus and a discharge from state custody. *Id.* Petitioner's request is **denied**. The undersigned will address the merits of this case once all parties have had the opportunity to appear and make arguments to the court.

IT IS SO ORDERED.



August 22, 2016
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge